IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

WP(C).No. 35662 of 2007(U)

PETITIONER:

VINEESH, S/O VIJAYAN,
AGED 29, MULANCHERI HOUSE,
KUZHUPPILLY, VYPIN, ERNAKULAM.

BY ADV. SRI.K.S.MADHUSOODANAN
SMT.K.M.RAMYA

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, DEPARTMENT OF ENVIRONMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
ERNAKULAM.

3. KUZHUPPILLY GRAMA PANCHAYATH,
KUZHUPPILLY, REP. BY SECRETARY.

4. THE CHAIRMAN, COASTAL ZONE MANAGEMENT AUTHORITY
(UNDER THE DEPARTMENT OF SCIENCE,TECHNOLOGY &
ENVIRONMENT),SASTHRI BHAVAN, PATTOM
TRIVANDRUM.

(ADDL. R6 IS IMPLEADED AS PER THE JUDGMENT)

BY G.P. SRI.K.J.MUHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 1 / 12 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C).NO. 35662 OF 2007

Dated this the 1st day of December, 2007

JUDGMENT

The Chairman, Coastal Zone Management Authority, (under the Department of Science, Technology and Environment), Sasthri Bhavan,Pattom Trivandrum, is impleaded suo motu as additional 4th respondent. The Registry will carry out corrections in the cause title.

2. The grievance of the petitioner, who constructed a residential building, within the area of the 3rd respondent Panchayat, is that the Panchayat is refusing to assign Door Number to that building stating the reason that the building violates the CRZ Regulations. The petitioner preferred an appeal before the District Collector. The District Collector by Ext.P2 order rejected the appeal reiterating that the building is situated hardly 10 meters away from the banks of the river. It has been held by the Supreme Court in Civil Appeal No.3726/2003 (P.A. Fazal Gafoor v. State of Kerala & Others) that the Additional 4th respondent is the authority to decide disputes as to whether a particular construction is in contravention of the CRZ Regulations.

3. Sri.K.S.Madhusoodanan, the learned counsel for the petitioner has no objection in the issue being relegated to the additional 4th

respondent authority. But he prays that the Panchayat may be directed to assign a provisional number to the building since without a provisional number, it will not be possible for the petitioner to get utility connections in the building, without which it will not be possible for the petitioner to occupy the building. The petitioner has averred that the building is the result of renovation of an old dilapidated building which stood on exactly the same site.

3. Even though there is such an averment in the writ petition and submissions of Sri.Madhusoodan were very persuasive, since Ext.P1 document shows that what was purchased by the petitioner was only a vacant plot, the question whether a building originally existed on the site is a matter to be gone into with notice to the Panchayat. But in view of the Supreme Court directions, normally the issue will have to be decided by the additional 4th respondent. Therefore, I permit the petitioner to file an application before the additional 4th respondent authority voicing all his grievance. If the additional 4th respondent authority receives such application from the petitioner within 10 days from today, the additional 4th respondent will issue notice to the petitioner and the 3rd respondent and consider the application in the light of the various grounds raised in the writ petition and take a decision at the earliest. Decision should be taken by the additional 4th respondent within two months of receiving such application. It is open to the petitioner to place a copy of this writ petition

also before additional 4th respondent authority.

(PIUS C.KURIAKOSE, JUDGE)

dpk

PIUS C. KURIAKOSE, J.

W.P.(C) NO.

Dated this the day of , 2007

JUDGMENT

PIUS C. KURIAKOSE,
JUDGE.